IN THE DRAWINGS:

The attached replacement drawing sheet including Figs. 3-5 is submitted in place of the original drawing sheet including Figs. 3-5. The replacement drawing sheet makes changes to Fig. 5 involving the addition of the identifying characters on the left side of Fig. 5.

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-16 are pending. By this Amendment, claims 1, 7 and 8 are amended and new Claims 12-16 are added. No new matter is added.

Applicants appreciate the indication that Claims 7-9 contain allowable subject matter. New Claims 12 and 13 place dependent Claims 7 and 8 respectively, in independent form and thus are in condition for allowance. Claims 7 and 8 are amended to depend from new claim 16 which is similar to original claim 6.

The Office Action objects to the drawings. Figure 5 is replaced with a new Figure 5 which shows the identifying reference characters on the left side. Withdrawal of the drawing objection is respectfully requested.

The Office Action rejects Claims 1-6 and 10 under 35 U.S.C. §103(a) over U.S. Patent No. 5,960,992 to *Bernstein et al.* in view of JP 7-40982 (JP '982) and Claim 11 under 35 U.S.C. §103(a) over *Bernstein et al.* and JP 7-40982 and further in view of U.S. Patent No. 6,279,779 to *Laciacera et al.* These rejections are respectfully traversed.

The Office Action recognizes that *Bernstein et al* fails to disclose, in combination with the other claimed features, a cutting edge comprising a plurality of first teeth that decrease in height. The Office Action suggests that JP '982 overcomes the deficiencies of *Bernstein* through its disclosure of a plurality of teeth 231 which appear to have differing heights.

An aspect of the closable opening device disclosed and claimed here pertains to a configuration of the cutting edge of the tubular cutting member. In a non-limiting

example disclosed in Applicants' specification, the cutting edge 31 comprises a main blade 36 and a number of first teeth 37a. These first teeth 37a are positioned downstream from the main blade 36 in a direction opposite the direction of rotation of the tubular cutting member 18. In addition, the first teeth 37a decrease gradually in height so that they act successively on the pierceable portion 10. The provision of this feature addresses the formation of threadlike residue on the cutting edge caused by the stretching of pierceable portion. The thread like residue may get into the product in the container.

As set forth in Claim 1, a tubular cutting member having a cutting edge is moved along a spiral path in response to rotation of a cap. The cutting edge comprises a main blade and at least a number of first teeth which proceed along the cutting edge in the opposite direction to the direction of rotation of the cutting member and decrease gradually in height so as to act successively on the pierceable portion. Thus, that the first teeth decrease gradually in height so as to act successively on the pierceable portion means that the first teeth decrease in height proceeding along the cutting edge in the opposite direction to the direction of rotation of the cutting member so as to act successively on the pierceable portion. Claim 1 is amended to make explicit that which was implicit in the original claim wording.

Applicants respectfully disagree with the Office Action's assertion that one of ordinary skill would have been motivated to combine *Bernstein* and *JP '982* and further that such a combination would result in the features recited in Applicants' Claim 1. *JP '982* discloses a cutting member 300 which is pushed down by inclined surfaces 222, 232. As shown in the figures, the cutting member 300 is always in the same rotational position, whether or not it has been pushed downward. The inclined

surfaces 222 are provided on a tubular extension of the cap (see Fig. 1) and conjugated inclined surfaces 232 are provided on the inner side of the lateral wall of the cutter member 300. These are shown in broken lines except where seen through windows provided in the lateral wall. The inner rib on the right side of the frame appears to constitute a linear guide that allows the cutting member 300 to slide vertically without rotating. When the cap is rotated, surfaces 222 cooperate with surfaces 232 so as to push down the cutter member which is blocked against rotation by the rib.

Applicants had *JP '982* reviewed by a person familiar with the Japanese language. This review indicates that *JP '982* provides no description nor explanation of the change in height of the cutting surfaces. Further, this review also confirms that the cutter in *JP '982* moves vertically without rotation. Thus, there is no suggestion that the first teeth decrease in height proceeding along the cutting edge in the opposite direction to the direction of rotation of the cutting member so as to act successively on the pierceable portion. If the Examiner has any questions regarding the disclosure in *JP '982*, Applicants encourage the Examiner to obtain an English language translation of *JP '982*.

The provision of the vertical cutting action in *JP '982*, rather than a rotating cutting member, teaches away from *Bernstein's* cutting member 90 which is simultaneously rotated in the same direction as the cap to move the cutting member downwardly to rotate and cut the peripheral portions of extrusion layer 48. In addition, even if it can be said that *JP '982* shows teeth that vary in height, since *JP '982* does not disclose a cutter that rotates, it cannot be said that *JP '982* teaches the claimed relationship between the direction in which the first teeth decrease in height

and the direction of rotation of the cutting member. That is, *JP '982* cannot be said to disclose or suggest arranging the teeth on *Bernstein's* cutting member so that the teeth decrease gradually in height, proceeding along the cutting edge in the opposite direction to the direction of rotation of the cutting member, so as to act successively on the pierceable portion as recited in Claim 1.

Laciacera does not overcome the deficiencies of *Bernstein* and *JP '982* discussed above.

The dependent claims are allowable for at least the reasons discussed above as well as for the individual features they recite. Withdrawal of the rejection of the dependent claims is respectfully requested.

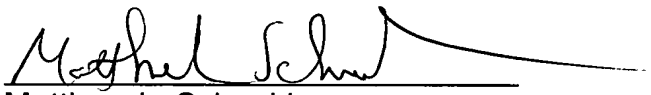
New independent Claim 15 is similar in some respects to Claim 1, but recites that the main blade has an asymmetrical triangular shape. New independent Claim 16 is also similar in some respects to Claim 1, but recites that the main blade includes a cutting side that slopes backwards from a tip of the main blade in a direction opposite the direction of rotation of the cutting member. The cited references do not disclose or suggest a closable opening device having these features in combination with the other claimed features.

Early and favorable action with respect to this application are respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: September 17, 2007 By: 

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